THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

–

–

DATED: 29-08-2005

–

–

WRIT PETITION No.18934 OF 2005

BETWEEN:

K.N.S.E.Rao . . .Petitioner

And

The Regional Manager, APSRTC, and another . . .Respondents

–

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

–

WRIT PETITION No.18934 OF 2005

–

O R D E R:

The petitioner is employed as a driver in APSRTC. While he was driving the bus on the route from Amalapuram to Pallamkurru, on 28-05-1999, an accident was caused resulting in injuries to the pillion rider of a two-wheeler. The petitioner was issued a charge sheet dated 03-06-1999 directing him to explain as to why necessary disciplinary action shall not be taken against him for the lapse on his part. The petitioner submitted his explanation on the same day. On consideration of the said explanation, the second respondent passed an order dated 30-06-1999 imposing penalty of stoppage of one increment with cumulative effect. Petitioner preferred an appeal before the first respondent against that order. The appeal was rejected on 29-04-2003. Hence, this writ petition.

The only point urged by Sri S.M.Subhan, the learned counsel for the petitioner, is that the second respondent imposed a penalty of stoppage of one increment with cumulative effect without conducting departmental enquiry. He placed reliance upon the judgment of the Apex Court in **KULWANTH SINGH GILL v. STATE OF PUNJAB** and submits that stoppage of increment is a major penalty and it cannot be imposed, except by conducting departmental enquiry.

Ms.B.G.Uma Devi, the learned Standing Counsel appearing for the respondents, on the other hand, submits that the penalty imposed against the petitioner itself is minimal, if the lapse on his part is taken into account.

It is a matter of record that the second respondent imposed the penalty of stoppage of one increment with cumulative effect on the allegation that the petitioner was negligent in performing his duties. Though a charge sheet was issued to the petitioner before the penalty was imposed, no departmental enquiry was conducted. I n **KULWANTH SINGH GILL's case** (supra), the

Supreme Court held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed, except by conducting departmental enquiry. In view of the same, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside, leaving it open to the second respondent to pass fresh orders. To avoid further delay and complication in the matter, this Court is of the view that the impugned order can be treated as the one for stoppage of one increment up to 31-08-2005.

Hence, the writ petition is allowed directing that the order dated 30-06-1999 passed by the second respondent shall be treated as the one for stoppage of one increment from the date of that order till 31-08-2005. The next increment shall be allowed to the petitioner with effect from 01-09-2005.

_____

(L.NARASIMHA REDDY, J)

29th AUGUST, 2005.

kvni